

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DWAINE WRIGHT,

Petitioner,

vs.

STATE OF OHIO,

Respondent.

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Case No. 3:11cv109

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (DOC. #21) IN THEIR
ENTIRETY AND OVERRULING PETITIONER'S OBJECTIONS THERETO
(DOC. #23); JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND
AGAINST PETITIONER HEREIN; ANTICIPATED REQUEST FOR
CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA*
PAUPERIS DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth in the Report and Recommendations of the United States Magistrate Judge (Doc. #21), as well as upon a thorough *de novo* review of this Court's file, said judicial filing is adopted in its entirety. The Petitioner's Objections thereto (Doc. #23) are overruled.

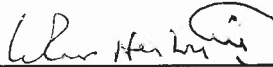
Given that Plaintiff has failed to set forth the denial of a constitutional right and that this Court's decision herein would not be debatable among jurists of reason, the Petitioner's anticipated request for Certificate of Appealability is denied. Moreover, given that any appeal from this decision would be objectively

frivolous, this Court denies leave to appeal *in forma pauperis*.

Judgment will be entered ordered in favor of Respondent and against Petitioner herein, denying and dismissing Petitioner's motion under 28 U.S.C. § 2255. Petitioner's Request for an Evidentiary Hearing (Doc. #1) is denied as moot.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

September 12, 2011



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Dwaine Wright, *Pro Se*
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